

BACKGROUND AND PUBLIC INTEREST STATEMENT

I. Parties to the Proposed Transfer of Control

AST Telecom, LLC d/b/a Blue Sky Communications (“Blue Sky”): Blue Sky is a Delaware limited-liability company. Blue Sky is a wholly-owned, direct subsidiary of eLandia International, Inc. (“eLandia”) headquartered in Pago Pago, American Samoa, and engaged in the provision of mobile telecommunications services in American Samoa and ownership and operation of the American Samoa cable station for the American Samoa Hawaii Cable system, which connects Hawaii, American Samoa, and the Independent State of Samoa.

eLandia: eLandia is the indirect parent company of Blue Sky and a diversified holding company with investments in the information technology and communications sectors. eLandia is a Delaware corporation headquartered in Miami, Florida.

Pete R. Pizarro: Mr. Pizarro presently controls eLandia through a Voting Trust, described below. Mr. Pizarro is also an individual shareholder of eLandia, holding approximately 2.75 percent of the issued and outstanding common shares of eLandia. Mr. Pizarro is the Chief Executive Officer of eLandia, and a U.S. citizen.

The Voting Trust was established as part of eLandia’s capital structure reorganization in February 2009. That transaction replaced Stanford International Bank Limited (“SIBL”) as the majority owner of eLandia. SIBL was issued Voting Trust Certificates in exchange for SIBL’s shares of eLandia. SIBL has become subject to a receivership imposed by the United States District Court for the Northern District of Texas in connection with a lawsuit by the Securities and Exchange Commission. The Receiver has “complete and exclusive control, possession, and custody” of “the assets, monies, securities, properties, real and personal, tangible and intangible,

of whatever kind and description, wherever located” of SIBL.¹ The Receiver confirmed by letter dated June 2, 2009, to Pete Pizarro that “the assets and business operations of eLandia and its subsidiaries are *not* part of the Receivership Estate. The Voting Trust Certificates are, however, a part of the Receivership Estate.”²

The Voting Trust now holds 44.75 percent of the common stock of eLandia, and also holds non-voting preferred stock of eLandia. Under the Voting Trust, Mr. Pizarro is given discretion to vote the eLandia common stock held by the Voting Trust on most matters (and the Voting Trust Agreement sets forth voting requirements on other matters). Because Mr. Pizarro individually also owns 2.75 percent of the outstanding common stock of eLandia, Mr. Pizarro now exercises the right to vote 47.50 percent of the voting shares of eLandia, and has control of eLandia pursuant to the Communications Act of 1934, as amended, and the Commission’s rules and regulations.³

The Voting Trust agreement provides that Mr. Pizarro, as trustee, has both the “duty” and “the full power and authority” to vote the shares in the Voting Trust as in the judgment of the trustee may be for the best interest of eLandia “at all meetings of the stockholders” of eLandia and “all actions to be taken by written consent of the stockholders” on any and all matters and questions which may be brought before such meetings, including “in the election of directors.”⁴

¹ See Amended Order Appointing Receiver, *Securities and Exchange Commission v. Stanford Int’l Bank, Ltd.*, Case No. 3-09-cv-0298-N (N.D. Tex. Mar 12, 2009), at ¶¶ 1, 4.

² See Letter from Ralph S. Janvey, Receiver, to Pete R. Pizarro, CEO, eLandia International, Inc. (June 2, 2009) (emphasis added), *filed as attachment to SEC Form 8-K* filed by eLandia International, Inc. (June 3, 2009).

³ See *Stratos Global Corporation, Transferor, Robert M. Franklin, Transferee, Consolidated Application for Consent to Transfer of Control*, Memorandum Opinion and Order and Declaratory Ruling, 22 FCC Rcd. 21,328 (Dec. 7, 2007) (holding that trustee with the power to vote shares is deemed to control shares in trust).

⁴ Voting Trust Agreement § 4.2(a).

The only limitation imposed by the Voting Trust on Mr. Pizarro's voting power is a requirement that Mr. Pizarro vote the shares in trust in the same proportion as the holders of the remaining outstanding shares of common stock present and voting at any meeting of the stockholders with respect to the sale of eLandia whether by merger, consolidation, sale of all or substantially all the assets or other similar transaction and with respect to certain increases to the amount of shares issuable pursuant to a stock option or other equity plan.⁵ Because Mr. Pizarro possesses voting control of the shares deposited by SIBL in the Voting Trust, he is deemed to control those shares.⁶

Amper, S.A.: Amper is the transferee in the Proposed Acquisition, described below. Amper is a Spanish *sociedad anónima, i.e.*, corporation. It operates as a Spanish holding company whose shares trade publicly on the Madrid Stock Exchange under the symbol AMP. Amper's operating units concentrate in three sectors:

- Amper's telecoms unit provides network and system integration services for operators, large industrial, financial, and public-sector clients; it also provides access, equipment, and related services to telecommunications operators. Its telecoms unit is currently active in Spain and Brazil. Amper is not a telecommunications carrier in any of the markets where it operates. Following the consummation of the Proposed Acquisition, the eLandia businesses will comprise part of Amper's telecom unit.

⁵ *Id.* § 4.2(b).

⁶ Mr. Pizarro may not be terminated as trustee by SIBL. Mr. Pizarro will cease to be trustee when he ceases to be the Chief Executive Officer of eLandia, or upon his resignation, death, disability, bankruptcy, or breach of the Voting Trust. *See id.* § 6.1.

- Amper’s defense unit designs, produces, integrates and maintains electronic equipment and information and communications systems—including command and control systems and military radio systems—for the defense market. Amper’s defense unit is focused on the European market.
- Amper’s homeland security unit designs and builds networks and systems to meet the security and critical communication needs. Amper’s homeland security unit is focused on the European and Latin American markets.

Amper is headquartered in Madrid.

II. The Proposed Acquisition

On July 29, 2010, eLandia entered into an agreement (“Contribution Agreement”) with Amper, whereby Amper will acquire approximately 84.88 percent of eLandia’s issued and outstanding shares and, upon closing, indirectly control Blue Sky (“Proposed Acquisition”). Following the consummation of the Proposed Acquisition, Blue Sky will continue to exist as an indirect subsidiary of Amper.

Pursuant to the Contribution Agreement, Amper will acquire 165,705,913 shares of eLandia’s newly issued common stock in exchange for the contribution to eLandia by Amper of approximately 90 percent of the outstanding capital stock of Hemisferio Norte, S.A. (“Hemisferio”). Hemisferio owns 100 percent of Hemisferio Sul Participações Ltda. (“Hemisferio Sul”), which owns 88.96 percent of Medidata Informática, S.A. (“Medidata”), which owns 100 percent of XC Comercial e Exportadora Ltda. (“XC,” with Hemisferio, Hemisferio Sul, and Medidata, the “Contributed Entities”). The shares of eLandia’s common stock being issued to Amper will represent approximately 84.88 percent of eLandia’s issued and

outstanding shares of common stock following the closing of the transactions contemplated by the Contribution Agreement.

The Contribution Agreement grants eLandia an option to buy Amper's remaining interest in Hemisferio in exchange for an option price of \$8.9 million, payable by the issuance of shares of eLandia common stock at a price per share equal to the fair market value of a share of eLandia common stock as of the date of the exercise of the option ("Hemisferio Option"). eLandia may exercise the Hemisferio Option within six months of the closing of the Proposed Acquisition. eLandia's exercise of the Hemisferio Option would significantly increase Amper's ownership of eLandia.

The Proposed Acquisition will not terminate the ownership interests of eLandia's current shareholders. Rather, the current shareholders' ownership shares will be diluted by eLandia's newly-issued common stock. The Voting Trust also currently holds non-voting preferred stock of eLandia, which will convert to common shares of eLandia as part of the Proposed Acquisition.⁷ In addition, pursuant to the Voting Trust agreement, following the Proposed Acquisition, the Voting Trust will terminate, and ownership of the shares previously held by the Voting Trust will revert to SIBL.⁸ The Receiver will have "complete and exclusive control, possession, and custody" of those shares.⁹

III. Public Interest Statement

The Proposed Acquisition will provide significant public-interest benefits.

⁷ SIBL holds Voting Trust Certificates which entitle SIBL to dividends and distributions from eLandia, if any, in respect of the shares SIBL deposited in the Voting Trust.

⁸ Voting Trust Agreement §§ 7, 8.

⁹ See Amended Order Appointing Receiver, *Securities and Exchange Commission v. Stanford Int'l Bank, Ltd.*, Case No. 3-09-cv-0298-N (N.D. Tex. Mar. 12, 2009), at ¶ 4.

- *First* and foremost, consummation of the Proposed Acquisition will ease cash-flow constraints on eLandia and its operating subsidiaries and improve their access to credit markets, allowing them to reduce outstanding debt and focus on reinvestment, renewal, and provision of quality services. For Blue Sky and its subsidiary American Samoa License, Inc., which operate the principal mobile telecommunications business in American Samoa, these changes are particularly important, better positioning them to serve an economically-depressed territory that continues rebuilding efforts following a devastating tsunami in 2009.
- *Second*, consummation of the Proposed Acquisition will provide eLandia and its operating subsidiaries with a stable and financially-sound parent. As the Commission well knows, eLandia has experienced a number of significant ownership and management changes in the course of the past few years—changes which have at times made it challenging for eLandia to focus on its core businesses. Amper will provide a welcome alternative to this uncertainty.
- *Third*, consummation of the Proposed Acquisition will allow eLandia and Amper to realize synergies from combining their Latin American systems integration businesses. Although these businesses operate largely outside the United States, their improved business prospects will contribute to the overall financial health of eLandia.

Consequently, the Applicants believe that Commission grant of this transfer application will serve the public interest, convenience, and necessity.